

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEPHEN R.F. KERN, JR.,

Case No. 2:22-cv-00539-GMN-NJK

Plaintiff

ORDER

v.

BRANDON MARCANO,

Defendant

I. DISCUSSION

Plaintiff is an inmate currently located at Ely State Prison. On March 29, 2022, Plaintiff submitted a document entitled “Small Claims Complaint” and an application to proceed *in forma pauperis*. (ECF Nos. 1, 1-1). To the extent Plaintiff sought to file a civil-rights complaint under 42 U.S.C. § 1983, his complaint at ECF No. 1-1 does not comply with Local Special Rule 2-1 and his application to proceed *in forma pauperis* at ECF No. 1 does not comply with Local Special 1-2. But to the extent Plaintiff intended to file a small claims action in the Las Vegas Township Justice Court, he failed to do so, and this Court will not submit his documents to that court for filing.

A. Complaint

The Court notes that Plaintiff's document at ECF No. 1-1 does not comply with Local Special Rule 2-1 ("LSR 2-1"). Under LSR 2-1, a civil rights complaint filed by a person who is not represented by an attorney must be submitted on the form provided by the court or must be legible and contain substantially all the information called for by the court's form. As such, the Court grants Plaintiff a **one-time** extension until on or before **June 13, 2022**, to submit complaint to the Court in compliance with LSR 2-1. The Court will also provide Plaintiff a copy of the Court's § 1983 complaint form with instructions.

B. Application to Proceed *in Forma Pauperis*

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit

1 all three of the following documents to the Court:

- 2 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's
 3 approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),
 4 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
 5 (i.e. page 4 of this Court's approved form), and
 6 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
 7 **six-month period.**

8 The Court will grant Plaintiff a **one-time** extension to file a fully complete application to
 9 proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay
 10 the full \$402 filing fee for this action on or before **June 13, 2022**. Absent unusual circumstances,
 11 the Court will not grant any further extensions of time. If Plaintiff does not file a fully complete
 12 application to proceed *in forma pauperis* with all three required documents or pay the full \$402
 13 filing fee on or before **June 13, 2022**, this case will be subject to dismissal without prejudice for
 14 Plaintiff to file a new case with the Court when Plaintiff has all three of the documents needed to
 15 file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

16 A dismissal without prejudice means Plaintiff does not give up the right to refile the case
 17 with the Court, under a new case number, when Plaintiff has all three documents needed to submit
 18 with an application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an
 19 application to proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before
 20 **June 13, 2022**, to proceed with this case.

21 **II. CONCLUSION**

22 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send to
 23 Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and a copy of
 24 his original document at Docket No. 1-1.

25 IT IS FURTHER ORDERED that Plaintiff will have until on or before **June 13, 2022**,
 26 submit complaint to the Court in compliance with LSR 2-1.

27 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint in compliance with
 28 LSR 2-1 on or before **June 13, 2022**, this case will be subject to dismissal without prejudice for

1 Plaintiff to refile the case with the Court, under a new case number, when Plaintiff is able to file a
2 complaint in compliance with LSR 2-1.

3 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the approved
4 form application to proceed *in forma pauperis* by an inmate, as well as the document entitled
5 information and instructions for filing an *in forma pauperis* application.

6 IT IS FURTHER ORDERED that on or before **June 13, 2022**, Plaintiff will either pay the
7 full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52 administrative
8 fee) or file with the Court:

9 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
10 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page
11 3),

12 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
13 (i.e. page 4 of this Court's approved form), and

14 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
15 **six-month period.**

16 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to
17 proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action
18 on or before **June 13, 2022**, this case will be subject to dismissal without prejudice for Plaintiff to
19 refile the case with the Court, under a new case number,
20 when Plaintiff has all three documents needed to file a complete application to proceed *in forma*
21 *pauperis* or pays the full \$402 filing fee.

22 IT IS FURTHER ORDERED that if Plaintiff intended to initiate an action with the Las
23 Vegas Township Justice Court, not this federal Court, then he must file notice with this Court that
24 he is voluntarily dismissing this action without prejudice under Federal Rule of Civil Procedure
25 41(a)(1)(i). The Court will not submit Plaintiff's papers to another court for filing.

26 IT IS FURTHER ORDERED that if Plaintiff intended to initiate a small claims action in
27 the Las Vegas Township Justice Court, not a civil-rights action in this federal Court, he must file
28 notice with this Court that he is voluntarily dismissing this action without prejudice under Federal

1 Rule of Civil Procedure 41(a)(1)(A)(i) And Plaintiff must make his own arrangements to file his
2 documents with the appropriate court.

3 DATED: April 12, 2022

4 
5 _____
6 Nancy J. Koppe
7 UNITED STATES MAGISTRATE JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28